

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MATTHEW KING, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:08CV1050 RWS
)	
ALAN BLAKE, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before me on defendants' motion to amend the case management order and continue the trial of this matter, currently set for November 16, 2009. In support of this motion, defense counsel argues that the case management order should be amended because he mistakenly assumed that the Court's May 15, 2009 extension of the discovery deadline automatically extended all other deadlines by one month. The motion seeking an extension of the discovery cut-off did not request an extension of any other deadlines, so the mere fact that the Court's May 15, 2009 Order did not tell counsel what he should have already known (i.e., deadlines do not just get magically extended in federal court without written Order) does not excuse counsel from knowing it. This is especially true here, when the governing case management order specifically states that "failure to timely file a motion for summary judgment will waive a party's right to do so before trial."

Despite counsel's flawed assumptions, I have concluded that the interests of justice require amendment of the case management order and a continuance of the November 16, 2009 trial setting.

Plaintiffs filed a belated motion for summary judgment, so I will vacate my prior order

denying their motion as untimely and reinstate their motion for summary judgment. I will extend the summary judgment deadline to October 1, 2009, with any responses to summary judgment due November 1, 2009 and any reply briefs due November 10, 2009. For the convenience of the Court, defendants' response in opposition to plaintiffs' reinstated motion for summary judgment will be due November 1, 2009. I will also vacate the November 16, 2009 trial setting, with trial to be set after the Court issues its ruling on the summary judgment motions. The Court will not extend any of these deadlines or the page limitations.

Moreover, within five days of the date of this Order, defense counsel shall file a certification from his supervisor at the Missouri Attorney General's Office stating that he or she has reviewed this Order.

Accordingly,

IT IS HEREBY ORDERED that defendants' motion to amend the case management order and for a continuance [#88] is granted, and the following amended deadlines shall apply to this case:


1) Any motion for summary judgment must be filed no later than **October 1, 2009**. Opposition briefs shall be filed no later than **November 1, 2009** and any reply brief may be filed no later than **November 10, 2009**. **No extensions of time or modification of the page limitation requirements will be granted.**

IT IS FURTHER ORDERED that **the Court's September 10, 2009 Order [#83] is vacated only in part as follows: the Order denying plaintiffs' motion for summary judgment as untimely and plaintiffs' motion for oral argument as moot is vacated, and plaintiffs' motion for summary judgment [#77] and plaintiffs' motion for oral argument**

[#81] are reinstated. Defendants' opposition to plaintiffs' motion for summary judgment is due no later than November 1, 2009. The remainder of the Court's September 10, 2009 Order [#83] remains in full force and effect.

IT IS FURTHER ORDERED that the Court's September 10, 2009 Order [#84] is vacated, and the trial of this matter, currently set for November 16, 2009, is vacated and will be reset, if necessary, following the Court's ruling on the cross-motions for summary judgment.

IT IS FURTHER ORDERED that within five (5) days of the date of this Order Robert Isaacson's supervisor at the Missouri Attorney General's Office shall file a certification stating that he or she has reviewed this Order.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 15th day of September, 2009.